

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Medicare & Medicaid Services**

Decision of the Administrator

IN THE CASE OF:	*	MGCRB Case No. 25C0068
	*	
McLaren Northern Michigan	*	
	*	
	*	
Provider No. 23-0105	*	Date: January 23, 2024
	*	
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This case is before the Administrator, Centers for Medicare & Medicaid Services (CMS), for review of the decision entered by the Medicare Geographic Classification Review Board (MGCRB). The review is during the 90-day period in § 1886(d)(10) of the Social Security Act (Act), as amended.¹ The Hospital requested that the Administrator reverse the MGCRB’s denial of its reclassification application. Accordingly, this case is now before the Administrator for final agency review.

ISSUE AND MGCRB DECISION

The issue involves whether the MGCRB properly denied the Hospital’s request for reclassification. The Hospital, geographically located in the rural Michigan Core-Based Statistical Area (CBSA), requested reclassification to the urban Midland, Michigan (MI) CBSA for purposes of using the area’s wage index to determine its payment rate under the Medicare inpatient prospective payment system (IPPS) for the Federal Fiscal Years (FFY) 2025 through 2027. The Hospital submitted evidence of its sole community hospital (SCH) status and rural referral center (RRC) status and filed its application under the special access rules. The MGCRB found that the requested area is not the closest area by distance for redesignation under the special rules for sole community hospitals and rural referral centers in 42 C.F.R. § 412.230(a)(3); rather, the closest area is the urban Bay City, MI CBSA.

HOSPITAL’S COMMENTS

The Hospital commented, requesting review by the Administrator. The Hospital stated that it submitted map evidence with its application showing the shortest route over improved roads to each area, and the that it showed the distance to the requested area was shorter. Specially, the maps the Hospital submitted showed that the distance to the requested Midland, MI CBSA was 124.9 miles, whereas the distance to the next closest CBSA (Bay City, MI) was 125.1 miles. The Hospital noted that it received a letter from the MGCRB acknowledging that the application was complete. The Hospital argued that if the MGCRB had an issue with the accuracy or validity of the map, it should have been raised at the completion notice stage or sometime before the denial

¹ 42 U.S.C. § 1395ww(d).

decision was issued in order to allow for the submission of additional or clarifying information. The Hospital pointed out that it has previously been allowed to submit supplemental information where a map was considered to be inadequate, or it has been allowed to submit alternative mapping information from a different source. The Hospital also stated that the MGCRB did not offer any map evidence that the requested area was not the closest, rather, the MGCRB simply stated that it was not the closest. The Hospital also pointed out that the MGCRB has increasingly been issuing denials indicating information provided by hospitals was missing, incomplete or inaccurate in the initial application, despite the fact that the MGCRB issued completion notices determining that nothing further was needed, and the application was complete.

DISCUSSION

The entire record furnished by the MGCRB has been examined, including any correspondence, position papers, exhibits, and subsequent submissions. All comments received timely are included in the record and have been considered.

Section 1886(d)(10)(C)(iii)(II) of the Social Security Act and the Medicare regulations at 42 C.F.R. § 412.278 provide for the CMS Administrator's review of the MGCRB decisions. In exercising its authority under § 1886(d)(10) of the Act, the MGCRB must comply with all of the provisions of Title XVIII of the Act and the regulations issued there under, including the regulations at 42 C.F.R. § 412.230, *et seq.* Likewise, the regulations promulgated by the Secretary establishing procedures and criteria for the MGCRB are binding on the agency and on the Administrator in reviewing MGCRB decisions.²

Section 1886(d)(10) of the Act provides for the MGCRB to consider the application of any subsection (d) hospital requesting that the Secretary change the hospital's geographic classification for purposes of determining for a fiscal year its wage index. Further, § 1886(d)(10)(D)(i)(I) requires the Secretary to publish guidelines for comparing wages, taking into account to the extent the Secretary determines appropriate, occupational mix in the area in which the hospital is classified and the area in which the hospital is applying to be classified.

With respect to MGCRB reclassification, the Medicare regulations at 42 C.F.R. § 412.230 *et seq.*, set forth the criteria an individual hospital seeking redesignation to another rural or urban area must meet for purposes of using that area's wage index. Except for sole community hospitals and rural referral centers, which have the option of applying under special access rules, an individual hospital must meet the proximity criteria at 42 C.F.R. § 412.230(a)(2), which states:

Proximity. Except as provided in paragraph (a)(3) of this section, to be redesignated to another rural area or an urban area, a hospital must demonstrate a close proximity to the area to which it seeks redesignation by meeting the criteria in paragraph (b) of this section, and submitting data requested under paragraph (c) of this section.

² *United States v. Nixon*, 418 U.S. 683, 694-96 (1974). See also K. Davis and R. Pierce, *Administrative Law Treatise* §6.5 at 251 (3rd ed. 1994).

The regulation at 42 C.F.R. § 412.230(a)(3) provides special access rules for sole community hospitals and rural referral centers, stating:

(3) *Special rules for sole community hospitals and rural referral centers.* To be redesignated under the special rules in this paragraph, a hospital must be a sole community hospital or a rural referral center as of the date of the MGCRB's review.

(i) A hospital that is approved as a rural referral center or a sole community hospital, or both, does not have to demonstrate a close proximity to the area to which it seeks redesignation.

(ii) If a hospital that is approved as a rural referral center or a sole community hospital, or both, qualifies for urban redesignation, it is redesignated to the urban area that is **closest** to the hospital or to the hospital's geographic home area. If the hospital is closer to another rural area than to any urban area, it may seek redesignation to either the closest rural or the closest urban area. (Emphasis added.)

The proximity criteria at 42 C.F.R. § 412.230(b) provides that:

Proximity criteria. A hospital demonstrates a close proximity with the area to which it seeks redesignation if one of the following conditions applies:

- (1) The distance from the hospital to the area is no more than 15 miles for an urban hospital and no more than 35 miles for a rural hospital.
- (2) At least 50 percent of the hospital's employees reside in the area.

In order to demonstrate proximity, 42 C.F.R. § 412.230(c) requires that a hospital submit appropriate data relating to its proximity to an area. To demonstrate proximity to the area, the hospital must provide evidence of the shortest route over improved roads to the area and the distance of that route.

In this case, the Hospital, which is located in rural Michigan, is currently designated as both an RRC and a SCH and applied under the special access rules available to RRCs and SCHs. The MGCRB found that the Hospital met all the criteria to be reclassified to the urban Midland, MI CBSA, except that the requested area was not the closest area by distance for redesignation under the special rules for SCHs and RRCs in 42 C.F.R. § 412.230(a)(3). However, the Administrator, using Google Maps, finds that the requested Midland, MI CBSA is closest area.

In light of the foregoing and based on the record presented by the Hospital for this reclassification period, the Administrator reverses the MGCRB decision. As the Hospital also met the other necessary criteria, including the wage comparison criteria for redesignation, the Hospital qualifies for redesignation to the urban Midland, MI CBSA, for purposes of using that area's wage index to determine its payment rate under the Medicare IPPS for the FFYs 2025 through 2027.

DECISION

The Administrator reverses the MGCRB's decision in this case.

**THIS CONSTITUTES THE FINAL ADMINISTRATIVE DECISION OF THE
SECRETARY OF HEALTH AND HUMAN SERVICES**

Date: March 29, 2024

/s/
Jonathan Blum
Principal Deputy Administrator
Centers for Medicare & Medicaid Services